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SEP 3 0 2003

In re Application of :
Yoshinori Nakamura et al :
Application No. 09/989,858 :
Filed: November 16, 2001 :
Attorney Docket No. FUJS 14.330A :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed August 7, 2003, under 37 CFR 1.10, which is being treated as a petition under 37 CFR 1.181 requesting that papers filed in response to the Notice to File Corrected Application Papers (hereafter Notice) be accorded a filing date of February 19, 2002.

A review of the file record discloses that a Notice was mailed on January 29, 2002 (filing date granted) requiring the submission of substitute drawings and an additional claims fee of \$252, which set a period for reply thereto of two months.¹

Applicants state that substitute drawings required by the Notice were in fact filed in the USPTO on February 19, 2002. In support thereof, applicants' have submitted a copy of a return stamped post card which acknowledges receipt of forty-six (46) sheets of drawings (in the USPTO) on February 19, 2002, for the instant application. The drawings have not been located among the application papers in the instant file, possibly due to applicants' placement of the wrong application number in the caption of the transmittal letter.

However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

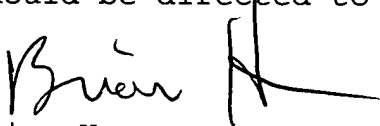
¹ It appears that the requirement for the \$252 balance due for the additional claims fee was in error since the transmittal submitted with the instant application authorized the charging of any additional fees due. The record for this application shows that this fee was in fact deducted from applicants' deposit account on February 8, 2002 (and given a mail room date of November 16, 2001, the date of filing of the instant application).

Further, under Office procedure, a reply that has an incorrect application number is handled in accordance with MPEP 508.03. In this regard, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the papers will be accepted as having been submitted on the date evidenced as having been received in the USPTO. In reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the papers with the instant file.

In view of the above, the petition under 37 CFR 1.181 is **granted**. The copy of the forty-six (46) sheets of drawings containing Figures 1-48, submitted with the petition on August 7, 2003, will be accepted in place of the drawings acknowledged as having been received for the instant application on February 19, 2002 and will be used for examination purposes.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing and an indication that forty-six (46) sheets of drawings in reply to the Notice of January 29, 2002 were filed on February 19, 2002.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.



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